

# COHEN & GREEN

February 23, 2024

Hon. Valerie Figueredo, U.S.M.J.  
United States District Court, Southern District of New York  
Daniel Patrick Moynihan Courthouse, 500 Pearl Street  
New York, New York 10007

By Electronic Filing.

**Re: Rodriguez et al v. City of New York, et. al., 21-cv-10815 (PKC)**

Dear Judge Figueredo:

As the Court may recall, I am co-counsel for Plaintiff in the case above.

I am writing because Defendants have unilaterally canceled a scheduled meet and confer and are apparently refusing to meet on the many outstanding issues raised in Plaintiff's February 5, 2024 letter (ECF No. 79-3 at 9-16). We therefore ask the Court to compel Defendants' counsel to appear for a meet and confer on Monday or Tuesday next week. Given that timetable, I will also be submitting a copy of this letter to Chambers by email.

By way of background — and as set out in ECF No. 79 — Plaintiff served a detailed deficiency letter (on the docket at ECF No. 79-3) on February 5, 2024 addressing in detail issues with Defendants' discovery responses (on the docket at ECF No. 79-2), and asked to meet and confer. Plaintiff then needed to follow up for times to confer on February 7 and twice on February 13 before Defendants agreed to meet on February 16, 2023. Again, as noted in ECF No. 79, that meet and confer was contentious, and despite lasting more than 2 hours, only made it through the first 8 pages of Plaintiff's letter. At the end of the meet and confer, Plaintiff reluctantly agreed — to accommodate Defendants' counsel — to hold off on the meeting until the following Friday, in part based on the representation counsel would review the letter in more depth before that meeting.<sup>1</sup>

Plaintiff also commemorated the meeting in an email — which Defendants did not respond to and have not suggested was inaccurate — which said, among other things, “I want to make clear we're prepared to move quickly on those items identified as an impasse above (and, indeed, plan to do so shortly after we get our discovery responses to you [which was scheduled for Wednesday]).” ECF No. 79-4 at 9. Plaintiff further asked, “if you think we've misstated your position, or think we're not actually at an impasse on those items identified as impasses (specifically, ‘Withholding/What Is Being Withheld’ [and] Int. No[. 2]), we would ask you to clarify that really as soon as possible,” so that she could make her motion quickly. *Id.*

So, given the lack of response, Plaintiff filed her motion on the two issues Defendants

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<sup>1</sup> The parties initially agreed to meet after coordinating calendars at 2:30 p.m. Mr. Scutero asked to shift to 11:00 a.m. on Wednesday, which Plaintiff agreed to.



confirmed an impasse on Thursday afternoon. Then, at around 10 p.m. that night (e.g., last night), Mr. Scutero emailed canceling the meeting with no explanation beyond that Plaintiff had made an unrelated motion:

“Due to plaintiff’s filing earlier today, we need to reschedule tomorrow’s meet and confer. Defendants require time to review and respond to the motion. We will get back to you about the meet and confer after we have responded.”

Plaintiff immediately responded (again) clarifying her “motion was on two issues we already reached impasse on” — not what was remaining to meet on — and that she objected to Defendants’ unilateral refusal to meet (as required by the Court’s Practices). And this morning, Plaintiff followed up again saying:

“Having not heard any response from you, I am going to assume we are still meeting.

We will be in the meeting on time, prepared to discuss the remaining issues in our letter from about three weeks ago. If you do not come, we will write to the Court.”

Defendants did not respond to either message. So, Plaintiff waited in the scheduled meet and confer Zoom room for half an hour, and Defendants’ counsel failed to appear. Plaintiff is now left filing this letter.

In order to get this case done within any reasonable timeframe, the parties cannot only address a single issue at a time. Everyone is going to need to walk and chew gum. Moreover, as set out in ECF No. 79, many of the issues raised are baseline discovery obligations, such as Defendants’ Failure to serve a privilege log. ECF No. 79-3 at 14. Nothing in Plaintiff’s motion stands in the way of the parties working through other responses — and Defendants’ late night resulted in significant wasted preparation and blocked-out calendar time. And nothing in Defendants’ emails explains why or how the two fully-conferred-to-impasse issues have anything to do with the remaining issues on which the parties need to meet and confer. And it’s not as if the motion was a surprise: Plaintiff specifically made “clear” in the post-meeting email on February 16 that she “plan[ned] to” and was “prepared to move quickly on” Interrogatory No. 2 and the 2015 amendment issues in ECF No. 79, rather than waiting for a meet and confer that might *still* not make it through all the issues.<sup>2</sup>

Thus, Plaintiff asks the Court to compel Defendants’ counsel to appear for a meet and confer next week on Monday or Tuesday.<sup>3</sup> The Court’s Practices require that counsel “must respond promptly and in good faith to any request from another party to confer.” Individual Rules of the Hon. Valerie Figueredo § II(c)(1) (Apr. 25, 2022). We are now three weeks out from our initial request to confer, and Defendants have put in writing that they are refusing to meet until after they “have responded” to an unrelated motion. That is not “prompt,” nor is the seeming “because you filed a motion, we won’t meet on anything” approach productive.

<sup>2</sup> And, indeed, given the Court’s page limit for discovery motions, an omnibus motion on every single issue is simply not possible.

<sup>3</sup> I am hopeful counsel can work out scheduling conflicts.



As ever, we thank the Court for its time and attention.

Respectfully submitted,

/s/

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J. Remy Grfeen

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**COHEN&GREEN P.L.L.C.**

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cc:

All relevant parties by electronic filing.